S.B.Civil Misc. Appeal No.362/94
Virendra Singh vs. Sona Ram

Date of Order: 14.11.2006

HON'BLE MR. PRAKASH TATIA, J.

Ms. Rekha Borana for the appellants.
None present for the respondent.

This appeal is against the award dated 7.2.1994 passed by the Motor Accident Claims Tribunal, Pali in Claim Case No.11/88. The claim petition of the claimants filed for getting compensation on account of death of their ancestor Sajjan Singh was dismissed by the Motor Accident Claims Tribunal, Pali, because of the reason that the claimants failed to produce any evidence.

The learned counsel for the appellants pointed out that the claimants shifted from the village and claimants' mother who alone was residing in the village died, therefore, they could not get the information of the date fixed for evidence of the claimants and before the rejection of the claim by the Motor Accident Claims Tribunal, Pali, the claimants submitted an application but that was rejected by the Motor Accident Claims Tribunal, Pali only on the ground that the evidence has already been closed and the arguments have been heard by the Motor Accident Claims Tribunal, Pali. It is submitted that the claimant offered to give statement on the same day before the award

was passed by the Motor Accident Claims Tribunal, Pali but his statement was not recorded because of the reason that on that day the Presiding Officer of Motor Accident Claims Tribunal, Pali was on leave which is apparent from the order-sheet dated 5.2.1994.

I considered the submissions of the learned counsel for the appellants and perused the record also.

It is true that several opportunities were given to the claimants to produce evidence but at the same time, it is clear that the Tribunal closed the evidence of the claimants on 29.1.1994. The claimants submitted an application on 5.2.1994 which was the date fixed by the Tribunal for pronouncement of the award. Said application was not considered by the Tribunal on 5.2.1994 because of the reason that the Presiding Officer was on leave. Therefore, before award was either written or at least pronounced, one of the applicants was present before the Tribunal and offered to give statement in support of his claim petition. Therefore, the Tribunal should have taken a liberal view in the matter and should have allowed the applicant to give statement in support of the claim petition.

Otherwise also on 29.1.1994, the evidence of the applicant was closed and, therefore, there was no question of hearing of any arguments in a case where none of the party produced any evidence and the applicants were not present on 29.1.1994. The Tribunal should have

dismissed the claim petition on account of absence of the applicants. Therefore, in the interest of justice, it will be appropriate to give opportunity to applicants to produce evidence in a case where one person has died in accident.

In view of the above, only on this count, the award of the Motor Accident Claims Tribunal, Pali, dated 7.2.1994 deserves to be set aside and hence set aside and the matter is remanded back to the Motor Accident Claims Tribunal, Pali for deciding in accordance with law after giving further opportunity to the appellants to produce evidence. The appellants shall appear before the Motor Accident Claims Tribunal, Pali, on 4.12.2006.

The appeal is, therefore, disposed of as indicated above.

(PRAKASH TATIA),J.

mlt.